

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
July 14, 2003

**D042011        People v. Ortega**

Upon filing an abandonment of appeal, the appeal is dismissed.

**D040139        Pope et al. Chicago Insurance Company/Harris**

The judgment is reversed. Pope and Harris shall recover their costs on appeal. McDonald, J.;  
We Concur: Benke, Acting P.J., McConnell, J.

**D042029        In re Negrete on Habeas Corpus**

The petition is denied.

Court convened at 9:00 a.m.

Present: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate  
Justices Gilbert Nares and Judith Haller  
Clerk: D. E. Moore

**D039979        Chavez et al. v. Mendoza et al.**

Cause called on merits. David R. Clark, Esq. argued for respondent. Duane H. Sceper, Esq. argued for  
respondent. Cause submitted.

**D040348        People v. Johnson**

Cause called on merits. Arthur Martin, Esq. argued for appellant. Garrett Beaumont, Deputy Attorney  
General argued for respondent. Mr. Martin replied. Cause submitted.

**D040170        In re Raul O., a Juvenile**

Cause called on merits. Debra Leffler-Streeter, Esq. argued for appellant. Andrew Mestman, Esq. argued  
for respondent. Ms. Streeter replied. Cause submitted.

**D039853        Del Taco, Inc. v. University Real Estate Partnership**

Cause called on merits. Jay Richard Saltsman, Esq. argued for appellant. Lee E. Hejmanowski, Esq.  
argued for respondent. Mr. Saltsman replied. Cause submitted.

Court recessed at 10:21 a.m. to change panel members. New panel members: The Honorable Gilbert  
Nares, Acting Presiding Justice, and The Honorable Associate Justices Judith Haller and Alex McDonald

**D040201        Pizzino, Jr. v. Seacoast Equities, Inc.**

Cause called on merits. Benjamin Pavone, Esq. argued for appellant. James Friedhofer, Esq. argued for  
respondent. Mr. Pavone replied. Cause submitted.

Court recessed at 10:55 a.m. until 1:30 p.m.

Court reconvened at 1:30 p.m.

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July 14, 2003 (Continued)

Present: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices Judith Haller and Alex McDonald  
Clerk: D. E. Moore

**D039877          Jaros v. Peterson & Chapman et al.**

Cause called on merits. Laurie Largent, Esq. argued for appellant. Virginia Leigh Price, Esq. argued for respondent. Ms. Largent replied. Cause submitted.

**D039882          Citizens United to Save the Beach, et al. v. State Lands Commission et al.**

Cause called on merits. Ronald A. Zumbrun, Esq. argued for appellant. Daniel L. Siegel, Deputy Attorney General argued for respondent. Mr. Zumbrun replied. Cause submitted.

**D039324          Del mar Sandy Lane Association et al. v. San Dieguito River Park Joint Powers Authority**

Cause called on merits. Donald Wayne Brechtel, Esq. argued for appellant/cross-respondent, San Dieguito River Park. Mary Entwistle Newcombe, Esq. argued for real party in interest/appellant/cross-respondent, Southern California Edison. Allan Abshez, Esq. argued for respondent/cross-appellant, Del Mar Sandy Lane Association. Mr. Brechtel replied. Ms. Newcombe replied. Cause submitted.

Court recessed at 3:08 p.m. until Tuesday, July 15, 2003 at 9 a.m.

**D041991          In re Mendoza on Habeas Corpus**

The petition is denied.

**D042046          In re Uipi on Habeas Corpus**

The petition is denied.

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**D039837      People v. Villa**

The abstract of judgment shall be amended to reflect that one of the section 12022, subd. (b)(1) enhancements be stayed, and as so modified, the judgment is affirmed. McDonald, Acting P.J.; We Concur: McConnell, J., Aaron, J.

**D039528      Postal Annex+, Inc., et al. v. Cork et al.**

The judgment is affirmed. Kremer, P.J.; We Concur: Benke, J., McIntyre, J.

**D041389      People v. Alcala**

The judgment is affirmed. O'Rourke, J.; We Concur: Benke, Acting P.J., McIntyre, J.

**D040177      People v. Hourigan et al.**

The judgment is affirmed. Aaron, J.; We Concur: Haller, Acting P.J., McConnell, J.

**D040157      Casa de Amigos v. Rady**

The order awarding attorney fees is affirmed. Rady is to recover her costs incurred on appeal. Nares, Acting P.J.; We Concur: McDonald, J., McIntyre, J.

**D041998      In re Troiani on Habeas Corpus**

The petition is denied.

Court convened at 9:00 a.m.

Present: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices Gilbert Nares and Judith Haller

Clerk: D. E. Moore

**D040570      In re Carlos G., a Juvenile**

Cause called on merits. Denise Rudasill, Esq. argued for appellant. William Wood, Deputy Attorney General argued for respondent. Ms. Rudasill replied. Cause submitted.

**D040588      People v. Martinez**

Cause called on merits. Joanna McKim, Esq. argued for appellant. Angela Borzachillo, Deputy Attorney General argued for respondent. Ms. McKim replied. Cause submitted.

**D039730      People v. Williams**

Cause called on merits. Lewis A. Wenzell, Esq. argued for appellant. Angela Borzachillo, Deputy Attorney General argued for respondent. Mr. Wenzell replied. Cause submitted.

Court recessed at 9:48 a.m. to change panel members. New panel members: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices Gilbert Nares and James McIntyre

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
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July 15, 2003 (Continued)

**D040307) People v. Nychay**

**D040308) People v. Nychay**

Cause called on merits. John J. Lanahan, Esq. argued for appellant. Randy Willert, Certified Law Student argued for respondent. Rhonda Cartright-Ledendorf, Deputy Attorney General argued for respondent. Mr. Lanahan replied. Cause submitted.

Court recessed at 10:09 a.m. until 1:30 p.m.

Court reconvened at 1:30 p.m.

Present: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices Judith Haller and Cynthia Aaron

Clerk: D. E. Moore

**D035365 People v. Ponce**

Cause called on merits. George L. Schraer, Esq. argued for appellant. John Swan, Deputy Attorney General argued for respondent, and submitted additional authorities. Mr. Schraer replied.

Court recessed at 1:46 p.m. to change panel members. New panel members: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices James McIntyre and Cynthia Aaron

**D039250 People v. Towner**

Cause called on merits. William R. Salisbury, Esq. argued for appellant. Ronald Jakob, Deputy Attorney General argued for respondent. Mr. Salisbury replied.

**D041410 In re Zarloumange P., et al., Juveniles**

Cause called on merits. Neil Trop, Esq. argued for appellant. Julie Braden, Esq. argued for the minor. Caitlin Rae, Deputy County Counsel argued for respondent. Mr. Trop replied. Cause submitted.

**D039499 People v. Villatoro**

Cause called on merits. Richard W. Weinthal, Esq. argued for appellant. Elizabeth Hartwig, Deputy Attorney General argued for respondent. Mr. Weinthal replied. Cause submitted.

**D039697 Hixson v. Hixson**

Cause called on merits. Rita Gunasekaran, Esq. argued for appellant. Anthony M. Stiegler, Esq. argued for respondent. Gary Steven Wolfe, Esq. replied for appellant. Cause submitted.

Court recessed at 3:30 p.m. until Wednesday, July 16, 2003 at 9 a.m.

**D039825 People v. Brockway**

The trial court is directed to correct the court minutes of February 14, 2002, to reflect the jury's acquittal of Brockway on count 22. The trial court is further directed to prepare an amended abstract of judgment reflecting the convictions of count 23 and count 24 under section 273a, subdivision (a), and to forward a certified copy of the amended abstract to the Department of Corrections. In all other respects the judgment is affirmed. McConnell, J.; We Concur: McDonald, Acting P.J., Aaron, J.

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**D040676        People v. Koller**

The order is affirmed . McConnell, J.; We Concur: Benke, Acting P.J., Aaron, J.

**D040954        People v. Pineda**

The judgment is affirmed. Huffman, J.; We Concur: Benke, Acting P.J., O'Rourke, J.

**D040349        Correll v. Spurgeon**

The judgment is reversed with directions to deny the motion to quash and to reinstate the complaint. Costs are awarded to Correll. Huffman, Acting P.J., I Concur: Haller, J.; I Concur and Dissent: Nares, J.

**D038215        People v. Bottomley**

It is ordered that the opinion filed on June 24, 2003 is modified. There is no change in judgment. The petition for rehearing is denied.

**D041585        In re Amisha B., a Juvenile**

The judgment is affirmed. Kremer, P.J.; We Concur: McDonald, J., McIntyre, J.

**D042443        Raja v. Superior Court of San Diego County/People**

The petition is denied.

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**D041629        In re Amy A. et al., a Juvenile**

The appeal is dismissed. O'Rourke, J.; We Concur: Haller, Acting P.J., McDonald, J.

Court convened at 9:00 a.m.

Present: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices James McIntyre and Cynthia Aaron

Clerk: D. E. Moore

**D041658        In re Victoria G., a Juvenile**

Cause called on merits. Julie E. Braden, Esq. argued for appellant. Andrea St. Julian, Esq. argued for the minor. Janice Casillas, Deputy County Counsel argued for respondent. Ms. Braden replied. Cause submitted.

**D039208        People v. Harris**

Cause called on merits. Marianne Harguindeguy, Esq. argued for appellant. Jeffrey Koch, Deputy Attorney General argued for respondent. Ms. Harguindeguy replied. Cause submitted.

**D040605        Nestande et al. v. Watson et al.**

Cause called on merits. Robert Donnelly Thornton, Esq. argued for appellant. Steven Craig Miller, Deputy County Counsel argued for respondent. Mr. Thornton replied. Cause submitted.

Court recessed at 9:43 a.m. until 1:30 p.m.

Court reconvened at 1:30 p.m.

Present: The Honorable James McIntyre, Acting Presiding Justice, and The Honorable Associate Justices Terry O'Rourke and Cynthia Aaron

Clerk: D. E. Moore

**D039688        Hardy v. Teich**

Cause called on merits. Lewis Merrill Wolensky, Esq. argued for appellant. Judy G. Keim, Esq. argued for respondent. Mr. Wolensky replied. Cause submitted.

**D040667        Flower v. Pep Boys**

Cause called on merits. Lisa Cooney, Esq. argued for respondent. Marianne Flower, argued for appellant in pro per. Cause submitted.

**D040768        Kassab v. State Bar of California**

Cause called on merits. Steve Kassab, argued for appellant in pro per. Tracey L. Mlodozeniec, Deputy General Counsel argued for respondent. Michael F. Armstrong, Esq. argued for respondent, Foytack. Mr. Kassab replied. Cause submitted.

Court recessed at 2:19 p.m. to change panel members. New panel members: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices Terry O'Rourke and Cynthia Aaron

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
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July 16, 2003 (Continued)

**D040034 California Emergency Physicians Medical Group v. Pacificare of California**  
Cause called on merits. Ian Moss Guthrie, Esq. argued for appellant. Tom Knego, Esq. argued for respondent. Mr. Guthrie replied. Cause submitted.

Court recessed at 3:01 p.m. until Thursday, July 17, 2003 at 9:00 a.m..

**D041470 In re Daniel M., a Juvenile**  
The opinion filed June 20, 2003, is certified for publication.

**D041359 Cigna Corporation v. Superior Court of San Diego County/Amerimax Flood Certification, L.L.C.**  
Let a writ of mandate issue directing the superior court to vacate its order of October 10, 2002, and December 10, 2002, and to determine whether Amerimax has met its burden of showing grounds exists for general jurisdiction consistent with this opinion. The stay issued by this court on March 6, 2003, is vacated. Each party to bear its own costs in the writ proceedings. Haller, J.;  
We Concur: Nares, Acting P.J., McIntyre, J.

**D041084 In re Thunderhawk C., a Juvenile**  
The judgment is affirmed. McConnell, J.; We Concur: Benke, Acting P.J., Aaron, J.

**D041996 In re Licon on Habeas Corpus**  
The petition is denied.

**D041588 In re D. L., a Juvenile**  
The order terminating parental rights is affirmed. McIntyre, J.; We Concur: Benke, Acting P.J., Haller, J.

**D039707 People v. Licon**  
The judgment is affirmed. Benke, Acting P.J.; We Concur: McConnell, J., Aaron, J.

**D038857 People v. Hall et al.**  
The judgments of conviction are affirmed. McIntyre, J.; We Concur: Benke, Acting P.J., O'Rourke, J.

**D042470 In re Junius B., a Juvenile**  
The appeal is dismissed as it is untimely and not from an appealable order.

**D038066 Panther v. Park et al.**  
**Financial Asset Management Foundation v. Panther et al.,**  
The judgment is modified to award Panther \$321,351 against Financial Asset Management Foundation for prejudgment interest. As modified, the judgment is affirmed. Panther and Financial Asset Management Foundation shall bear their own costs on appeal. Park, Tremblett and Grain shall have costs from Panther. Kremer, P.J., We Concur: Benke, J., McDonald, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
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**D042364        Crow v. Michel et al.**

Appellant having failed to file an application for permission to appeal pursuant to this court's order dated June 24, 2003, the appeal is dismissed.



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July 17, 2003

**D040622      People v. Henderson**

The judgment is affirmed. CERTIFIED FOR PUBLICATION. Huffman, Acting P.J.;  
We Concur: Nares, J., Haller, J.

**D041935      In re Katomski on Habeas Corpus**

The petition is denied.

**D041581      In re Hector N., a Juvenile**

The order is affirmed. McIntyre, J.; We Concur: Benke, Acting P.J., Nares, J.

Court convened at 9:00 a.m.

Present: The Honorable Gilbert Nares, Acting Presiding Justice, and The Honorable Associate Justices  
Judith Haller and Alex McDonald

Clerk: D. E. Moore

**D040278      Morris v. De La Torre**

Cause called on merits. Thomas V. Clements, Esq. argued for respondent. Stephen J. Estey, Esq. argued  
for appellant. Cause submitted.

Court recessed at 9:20 a.m. to change panel members. New panel members: The Honorable Gilbert  
Nares, Acting Presiding Justice, and The Honorable Associate Justices Alex McDonald and James  
McIntyre

**D040118      Kohne v. Amoco Corporation et al.**

Cause called on merits. Mark Edmonde Haddad, Esq. argued for appellant. Maxwell M. Blecher, Esq.  
argued for respondent. Mr. Haddad replied. Cause submitted.

Court recessed at 10:03 a.m. until 1:30 p.m.

Court reconvened at 1:30 p.m.

Present: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices  
Judith McConnell and Cynthia Aaron

Clerk: D. E. Moore

**D037390      St. Paul Mercury Insurance Company v. Frontier Pacific Insurance Company et al.**

Cause called on merits. Joseph Richard Zamora, Esq. argued for appellant/cross-respondent, Frontier  
Pacific Insurance Company. James Patrick Wagoner, Esq. argued for appellant/cross-respondent,  
American International Specialty Lines Insurance. Mark Vranjes, Esq. argued for respondent, Schuff  
Steel Company. Carol Anne Boyd, Esq. argued for respondent/cross-appellant, St. Paul Mercury  
Insurance Company. Mr. Zamora replied. Mr. Wagoner replied. Ms. Boyd replied. Cause submitted.

Court adjourned at 2:45 p.m.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
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July 17, 2003 (Continued)

**D042444        Burt v. Superior Court of Superior Court of San Diego County/People**  
The petition is denied.

**D042074        County of San Diego v. Superior Court of Sand Diego County/De Villers**  
The petition is denied.

**D042339        Berry v. Superior Court of San Diego County/People**  
The petition is denied.

**D042048        In re Karla C., a Juvenile**

**D042060        In re Karla C., a Juvenile**

Respondent's unopposed motion to consolidate the above-entitled appeals is granted. All documents will be filed under D042048.

**D042317        David F. et al. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**

By failing to file a timely petition for writ relief, the notice of intent is deemed to be abandoned. The case as to David F. is dismissed. Repsonse to Mindy J.'s petition for writ of mandate is due 10 days from the date of this order.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
July 18, 2003

**D039316        DeRungs et al. v. Scripps Clinic Management Services Organization, Inc., et al.**

The judgment is reversed and the matter is remanded for a new trial consistent with this opinion. The DeRungs' motion to dismiss the appeal of "Scripps Clinic" is denied. The parties shall bear their own costs on appeal. Nares, Acting P.J.; We Concur: Haller, J., McConnell, J.

**D039603        Lawrence, Jr. et al. v. Maris**

The judgment is affirmed as to the first cause of action for declaratory relief. The judgment is reversed as to the second cause of action for breach of contract. The matter is remanded to the trial court with directions to determine damages, costs and attorney fees, and to enter judgment for plaintiffs on their breach of contract claim. Lawrence et al. are entitled to costs on appeal. Aaron, J.; I Concur: McIntyre, J., I Dissent (by opinion): McDonald, J.

**D042341        Jennifer G. et al. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**

The attorney for petitioner Jennifer G. has notified the court on behalf of the petitioner that a Petition for Writ of Mandate under Rule 39.1B will not be filed as there are no viable issues for writ review. The case as to Jennifer G. is dismissed.

**D042530        Valdez v. Superior Court of San Diego County/People**

The petition is denied.

**D042513        USAT Reorganization LLC et al. v. Superior Court of San Diego County/Writer et al.**

The petition is denied.